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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/540,148	03/31/2000	Peter T Fry	80934F-P	1747

1333 7590 06/20/2002

PATENT LEGAL STAFF
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EXAMINER

CHAPMAN, JEANETTE E

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 06/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/540,148

Applicant(s)
Fry et al

Examiner
JEANETTE CHAPMAN

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 31, 2000
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 1-9, 11-19, 21-29, 31-39 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Jebens et al (63212312). Jebens et al. discloses obtaining a low and high resolution digital image file, transmitting the low resolution image to a server at a remote image provider over a communication network and the server having software 10/14/16 for manipulating and/or for ordering of goods and/ or services with respect to the image, using the software with respect to the images and transmitting the high resolution digital image file after using the software. See figures 1-2 and 10f and See columns 2-3. The communications network is the Internet. The

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software comprises viewing the image on a display device using the low resolution image file. The software comprises manipulating the image. See column 10. The software 10 comprises placing an order for goods and services with respect to the image. The remote image service provider fulfills said order and the meta data used by the image provider is also transmitted. See column 8 and columns 17-21.

Jebens et al (6321231) discloses an image provider 14 connected to a communications network. See figure 2. Also disclosed is a digital device for obtaining high and low resolution image files. See column 3, lines 49-65 and column 6, lines 1-50. Jebens et al discloses a remote compute, elements 8+, connected to the server of the image provider through the network. The computer is capable of obtaining high and low resolution of images from a digital device and forwarding the image files to the server. See also columns 7-8. The system includes a high resolution scanner 48. The digital device having a digital memory with a high resolution of the digital file. See above sections of column 6. The digital device comprises a camera/ computer memory storage disc memory device or a CD having a high resolution digital image of the image. See column 5, lines 54-60 and column 6, lines 18-37.

Jebens et al has disclosed the low resolution category as around 100 pixels and the high around 800 pixels. Therefore, fulfilling the limitations of claims 37-38. Small variations are well within the scope of Jebens and one of ordinary skill in the art would have been able to produce the variations without departing from the scope and spirit of the invention to Jebens et al. The low resolution file is no greater than about 50% of the high resolution file. See column 9, lines 45-60.

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Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 10, 20, 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jebens et al in view of in view of Sacca et al (63809670).

Jebens et al does not disclose, the transmission of the image data can be interrupted and resumed at the same place where the transmission was interrupted. As shown by Sacca. It would have been obvious to add this feature as a user option to make amendments at a later date without starting over.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Chapman whose telephone number is 703-308-1310. The examiner can normally be reached on Monday through Friday, except every other Friday from 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on (703) 308-1344.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-1113.

Any response to this action should be mailed to:

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*Commissioner of Patents and Trademarks
Washington D.C. 20231*

or faxed to:

(703)305-7687	[Official communications; including After Final communications labeled "Box AF"]
(703) 746-3201	[Informal/Draft communications, labeled "Proposed" or "Draft"]

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive, Arlington, VA 7th floor receptionist.


Jeanette Chapman
Primary Examiner